

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

THIS DOCUMENT RELATES TO:

Grimsley (0:17-cv-04872-JNE-FLN)

**DECLARATION OF DANIEL C. BURKE IN SUPPORT OF PLAINTIFF'S
RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

I, Daniel C. Burke, declare as follows:

1. I am an attorney at Bernstein Liebhard LLP and Counsel for Plaintiff in the above-referenced matter.
2. I submit this affidavit in opposition to Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order Nos. 14 and 23 filed on July 3, 2018.
3. Mr. Grimsley contacted Bernstein Liebhard LLP in May 2017 regarding injuries that were allegedly caused by the Bair Hugger patient warming device.
4. Medical records pertaining to Mr. Grimsley's treatment were obtained by Bernstein Liebhard LLP through its third party medical records retrieval company. Those records indicated that a Bair Hugger device was used during his initial orthopedic surgery.
5. Unfortunately, Mr. Grimsley passed away on December 19, 2017.
6. Ms. Grimsley wished to move forward with the case and would take the necessary steps to complete probate of her husband's estate and provide the

information needed for the Plaintiff Fact Sheet.

7. Phone calls were placed and letters were sent to Ms. Grimsley by staff at Bernstein Liebhard LLP in an attempt to reach her to obtain information necessary to complete the Plaintiff Fact Sheet.
8. To date, Bernstein Liebhard LLP has not received the Plaintiff Fact Sheet.
9. We have been unable to obtain information necessary to complete the Plaintiff Fact Sheet from Mrs. Grimsley.

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 10, 2018

/s/ Daniel C. Burke
Daniel C. Burke